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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/901,512
Filing Date: July 09, 2001
Appellant(s): ROSS ET AL.

MAILED

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GROUP 3600

Mark Joy (Reg. No. 35,562)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 3, 2006 appealing from the Office action mailed February 28, 2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) *Claim Appendix*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) *Evidence Relied Upon*

The appellant's statement of evidence relied upon contained in the brief is correct.

(9) *Grounds of Rejection*

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 13, 37-40, 45, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Dr. Morris F. Collen, Hospital Computer Systems, John Willey & Sons, 1974 (hereinafter Collen).

Regarding to claim 7, Collen discloses a method of providing access to patient record documentation, patient tracking and order entry information in a system capable of rendering patient information in a variety of grease board views (pages 121-123, Physicians, nurses can access to patient record documentation, patient tracking and order entry information in a ***Nursing Station Subsystem***; page 122, paragraph 6, see “Selection of desired data”, the nursing station subsystem displays the data in “***multiple listings and indices***” that is equivalent to “a variety of grease board views”), comprising the steps of:

logging a user on to a peripheral terminal (page 125, paragraph 2, Dr. Smith inserts his identification card into the terminal identification card reader, the system logs the doctor), and

displaying, at the peripheral terminal, a name of the user and active patient list "grease board" (figure 6-1b and page 125, paragraph 2, the system logs Dr. Smith on and displays his name, the date, the time of his interaction with the terminal, and a listing of patients and their bed locations, note that the patients is staying in the hospital are considered "active patients"), wherein the active patient list grease board is capable of displaying, from each one of a set of active patient records, a set of related information including: room location, patient's name, patient's physician, nursing orders, patient priority and elapsed time of stay (figures 6-1b, e.g. room location: 402B, patient's name: Brown, Bill, patient's physician: Dr. Smith; in figure 6-1b, the system also displays an admission date of each patient, e.g. patient Brown, Bill, the admission date is 19 OCT 72, thus the admission date of each patient showed the patient priority, also figure 6-1c displayed the date Dr. Smith accesses to patient Brown, Bill record for dictation (23 OCT 72), thus the admission date of patient Brown, Bill and the date Dr. Smith accesses to patient Brown, Bill record showed the elapsed time of stay of the patient Brown, Bill); status of assignment of nurse and physician, and status of X-rays, labs, tests, nurses' orders records, dictation and vital signs (see figures 6-1c through 6-1v),

wherein patient record information sets, from the active patient record, are presented on the peripheral terminal, during the displaying step, in accordance with a designated one of the variety of grease board views (page 125 and figures 6-1b through 6-1v, the patient record is displayed on the Nursing Station Subsystem in multiple listings and indices).

Regarding to claim 13, Collen further discloses wherein the logging a user on comprises inserting a security card in a receiver connected to the peripheral terminal, which logs on and identified the user and brings up the active patient list grease board (page 125, paragraph 2, Dr. Smith inserts his identification card into the terminal identification card reader, the system logs the doctor on and displaying his name, the date, the time of his interaction with the terminal, and also displaying a listing of patients and their bed locations).

Regarding to claim 37, Collen discloses a system for presenting, at a peripheral displaying terminal, patient information in a variety of grease board views (pages 121-123, Physicians, nurses can access to patient information in a **Nursing Station Subsystem**; page 122, paragraph 6, see "Selection of desired data", the nursing station subsystem displays the data in "**multiple listings and indices**" that is equivalent to "a variety of grease board views"), the system comprising:

a security module including computer executable instructions for logging a user on to a peripheral terminal (page 125, paragraph 2, Dr. Smith inserts his identification card into the terminal identification card reader, the system logs the doctor), and

a tracking module including computer executable instruction for displaying, at the peripheral displaying terminal, an active patient list grease board, wherein the active patient list grease board is capable of displaying, from each one of a set of active patient records, a set of related information including the patient's name and variety of task-related information, wherein patient record information sets, from the active patient record, are presented on the peripheral terminal, during the displaying step, in

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accordance with a designated one variety of grease board views (figures 6-1b, e.g. room location: 402B, patient's name: Brown, Bill, patient's physician: Dr. Smith; in figure 6-1b, the system also displays an admission date of each patient, e.g. patient Brown, Bill, the admission date is 19 OCT 72, thus the admission date of each patient showed the patient priority, also figure 6-1c displayed the date Dr. Smith accesses to patient Brown, Bill record for dictation (23 OCT 72), thus the admission date of patient Brown, Bill and the date Dr. Smith accesses to patient Brown, Bill record showed the elapsed time of stay of the patient Brown, Bill); status of assignment of nurse and physician, and status of X-rays, labs, tests, nurses' orders records, dictation and vital signs (see figures 6-1c through 6-1v, the patient record is displayed on the Nursing Station Subsystem in multiple listings and indices and page 117).

Regarding to claim 38, Collen further discloses wherein the security module and tracking module cooperatively limit access, by a logged on user, to patient information associated with ones of the set of active patient records (page 122, paragraph 2, see "User identification", the system is capable of controlling user access and level of access).

Regarding to claim 39, Collen further discloses wherein access to patient information is provided in the form of a set of functions that modify data associated with the active patient records (page 125, paragraph 3, the doctor can access patient information by selecting the patient on the list of patients and modify the data associated the active patient record such as Diagnosis, Signs and Symptoms, etc.).

Regarding to claim 40, Collen further discloses wherein access is based upon a user type associated with the logged on user (page 122, paragraph 2, see "User identification", e.g. an admission clerk may not enter a drug order, a physician may not have access to admission files except for review, only a psychiatrist may retrieve psychiatric data, etc.).

Regarding to claim 45, Collen further discloses wherein the variety of grease board views comprises an outstanding orders view comprising at least a list of tasks that are pending for identified patients (figure 6-1v, a list of outstanding orders for the patient Brown, Bill, room 402B).

Regarding to claim 46, Collen further discloses wherein the variety of grease board views comprises a vital signs view comprising most recent vital signs taken for a list of identified patients (figure 6-1u, a list of most recent vital signs for the patient Brown, Bill, room 402B).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10-12, and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dr. Morris F. Collen, Hospital Computer Systems, John Willey & Sons, 1974 (hereinafter Collen).

Regarding to claim 8, Collen does not disclose wherein an ordered status is shown in small letters and a completed status is shown by large letters for X-rays, labs, test, nurses' order and dictation transcription. However, Collen does disclose the newer visual display of the Nursing Station Subsystem includes the more sophisticated software permit several approaches such as color-coding, blinking symbols or words, etc. in order to provide more attention to the user in regarding to specific information (page 123, paragraph 2). Moreover, displaying words in small letters and large letters is well known in the art and also is a desired choice in order to provide more attention to the user in regarding to specific information. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Collen's system to adopt the teaching of the obvious feature above for the purpose of providing more attention to the user in regarding to the status of X-rays, labs, test, nurses' order and dictation transcription.

Regarding to claims 10-12, Collen does not disclose displaying the active patient list grease board information in the form of a list of patients waiting to be seen by a physician in order of priority, a list of patient complaints, a list of patients whose reports have not been dictated by physician. However, it is well known in the art to construct a list of patients according to a particular goal such as patients waiting to be seen by a physician in order of priority, patient complaints, patients whose reports have not been

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dictated by physician. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Collen's system to adopt the teaching of the obvious features above for the purpose of assisting the doctors or other health care professional in efficiently, quickly and easily identify the patients in order to deliver care to the patients.

Claims 42-44 contain similar limitations found in claims 10-12 above, therefore, are rejected by the same rationale.

Claims 9 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dr. Morris F. Collen, Hospital Computer Systems, John Willey & Sons, 1974 (hereinafter Collen), in view of Engleson et al (hereinafter Engleson), U.S. Patent No. 5,781,442.

Regarding to claims 9 and 41, Collen does not disclose wherein the variety of grease board views comprises a department layout view of patient information associated with the active patient record that includes a map of rooms and patient information associated with an occupant. However Engleson discloses wherein the variety of grease board views comprises a department layout view of patient information associated with the active patient record that includes a map of rooms and patient information associated with an occupant (figure 12 presents a computer screen containing an overview of a partial floor of a hospital in which various patients' rooms are shown with the names of the patient). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Collen's system to adopt the teaching of Engleson above for the purpose of assisting the doctors

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or other health care professional in efficiently, quickly and easily identify the patients in order to deliver care to the patients.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dr. Morris F. Collen, Hospital Computer Systems, John Willey & Sons, 1974 (hereinafter Collen), in view of Samar, U.S. Patent No. 5,778,072, and further in view of Ballantyne et al (hereinafter Ballantyne), U.S. Patent No. 5,867,821.

Regarding to claim 14, Collen does not disclose wherein pulling the security card from the receiver automatically exits the screen, establishes a security lockout on the peripheral terminal, and save the data which have been entered on the screen by transferring the data from the peripheral terminal to a file server communicatively connected to the peripheral terminal. However, Samar discloses wherein pulling the security card from the receiver automatically exits the screen, establishes a security lockout on the peripheral terminal (column 9, lines 5-15; when the user A removes the smart card 123 from the card reader 121, the operating system 135 terminates user A's session, logging user A out of the computer 101). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Collen's system to adopt the teaching of Samar above for the purpose of improving the security in accessing patient records at the peripheral terminal. Moreover, Ballantyne discloses saving the data which have been entered on the screen by transferring the data from the peripheral terminal to a file server communicatively connected to the peripheral terminal (column 12, lines 10-47; the PDA automatically transfers the modified health record to the PCS, or the nursing station transfers the modified health

record to the Master Library). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Collen's system to adopt the teaching of Ballantyne above in order to ensure that the health records are maintained in a timely and efficiently manner.

(10) Response to Arguments

Regarding to claims 7, 13, 37-40, 45, and 46, Appellants argues that the cited reference Collen does not teach variety of grease board views, Collen support only a single grease board view. In response, examiner notes that Appellants indicates "variety of grease board views" described in the applicants' invention as follow: "Active patient list information is displayed in a department layout. A screen shows a list of patients waiting to be seen by a physician in the order of priority. Another display shows patient lists by patient complaints. A further display lists patient lists by those whose charts have not been dictated by the physician", that is, the different lists of patients are shown in a variety of displays. Thus, "variety of grease board views" can be read as "variety of displays", or "variety of grease board views" is equivalent to "variety of displays". See Collen, page 123, paragraph 3, a frequent format for visual displays consists of four sections: (1) a 1-3 line part for displaying user of patient identification, (2) a 2-6 line part for displaying items selected for verification, (3) the body of the display contains fixed and variable data items which constitute the indices and data lists from which specific items are compiled for entry, items selected may be transferred to the user directly *to another display*, (4) a group of several lines containing selectable "control functions' which permit such operation as: *forward*

or back page, "drive" to name index of data page. Also, see figures 6-1a, 61-b, and page 125, paragraph 1, figure 6-1a appears when Dr. "Smith insert his identification card into the terminal, in the control function portion of the display, he selects "Local Census" and is "driven" to a displayed listing of patients and their bed locations, upon selects a patient name, the physician is driven to Figure 6-1c, entitled "Physician Index." Therefore, Collen supports "a variety of displays" or "variety of grease board views".

Regarding claims 8, 10-12, and 42-44, in response to Appellant's arguments regarding to examiner's taking of Official Notice, examiner submits that appellant has not submitted any rebuttal of the well known statements, but has merely requested references disclosing the well known limitations. In the paragraph in MPEP 2144.03 immediately preceding the above citing, reference is made to *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420-421 (CCPA 1970) that "Furthermore, the applicant must be given the opportunity to challenge the correctness of such assertions and allegations." Again, the Appellant has not challenged the correctness of the assertions, only the use of Official Notice, Bald statements such as "Applicants expressly request identification of a prior art reference", or "Applicants request provision of a reference in support of the Final Office Action's assertions", are not adequate and do not shift the burden to the examiner to provide evidence in support of the Official Notice. Allowing such statements to challenge Official Notice would effectively destroy any incentive on the part of the examiner to user it in the process of stabling a rejection of notoriously well known facts (*In re Boon*, 169 USPQ 231 (CCPA 1971)).

Regarding to claims 9 and 41, Appellants argues that the department layout view in Engleson does not provide access to the patient information recited in claims 7 and 37. In

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response, figure 12 presents a computer screen containing an overview of a partial floor of a hospital in which various patients' rooms are shown with the names of the patient that satisfies the limitations cited in claims 9 and 41 “wherein the variety of grease board views comprises a department layout view of patient information associated with the active patient record that includes a map of rooms and patient information associated with an occupant.”


(11) Related Proceedings Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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